

Attorney Docket No.: 01CON247P-CON
Application Serial No.: 10/806,800

REMARKS

This is in response to the *Final* Office Action of May 12, 2009, where the Examiner has rejected claims 30-45 and 56-57. An early allowance of outstanding claims 30-45 and 56-57 in view of the following remarks is requested.

A. Rejection of Claims 30-33, 38-41 and 56-57 under 35 USC § 103(a)

The Examiner has rejected claims 30-33, 38-41 and 56-57, under 35 USC § 103(a), as being unpatentable over Farris, et al. (USPN 6,438,218) ("Farris") in view of Walsh, et al. (USPN 6,636,519) ("Walsh").

Applicant acknowledges and appreciates the Examiner's withdrawal of claim rejections based on Farris in view of Vaziri, et al. (USPN 6,377,570) ("Vaziri") in accordance with the distinctions offered by applicant.

For the reasons stated below, applicant respectfully disagrees with the Examiner's rejection of independent claim 30, as being unpatentable over Farris in view of Walsh.

It is respectfully submitted that the Office Action acknowledges that "Farris does not expressly disclose that the first gateway has a modem that establishes the physical connection to the client modem, and the modem handshaking communications." However, the Office Action cites Walsh, and alleges that Walsh discloses all the following elements missing from Farris:

receiving a first set of data link parameters supported by said first client modem;

receiving a second set of data link parameters supported by both a second gateway modem of said second gateway modem and said second client modem;

harmonizing a set of data link parameters supported by said first gateway with said first set of data link parameters and said second set of data link parameters to determine *a final set of data link parameters*

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supported by all of said first client modem, said first gateway modem, said second gateway modem and said second client modem.

Applicant respectfully disagrees that Walsh discloses the above elements of claim 30. In fact, applicant respectfully submits that Walsh does not even come close to disclosing, teaching or suggesting such elements of claim 30, let alone either Farris or Walsh teaching or suggesting the combination that is alleged by the Office Action to reach the invention of claim 30. To clearly set forth the lack of disclosure of the above elements of claim 30 by Walsh, below, applicant has recited a key portion of Walsh, which is also relied upon by the Office Action:

The "link-up" state has two sub-states, the "link negotiation" state and the "information transfer" state. The link negotiation state is entered at the same time that the link up state is entered. While in the link negotiation state, each card sends an XID frame to the other card (e.g., card 605) in the link. The XID frame contains information that is used to get both cards in a link to agree on certain parameters, such as receive window size and packet bus block size. After a card in the link negotiation state has sent and received an XID frame, it stores the various agreed upon parameters and marks the link as being in the information transfer state. The parameters agreed upon after exchanging XID frames cannot be changed during a communication session. For example, the receive window size the packet bus block size, once agreed upon by both cards, cannot be changed during the session. A new session has to be started to change these parameters. (Column 25, lines 18-34.)

As shown above in the underlined portion of Walsh, the local modem, e.g. modem 408, negotiates parameters and establishes a modem link with its local gateway card 605. In other words, Walsh clearly discloses the conventional approach where parameters are exchanged and agreed upon between each pair of local modem and local gateway, and the data link protocol is established between each pair of local modem and local gateway based on parameters that are solely negotiated between each pair of local modem and local gateway. As Walsh further explains, once the parameters are negotiated and agreed upon locally, a data link between the local modem and the local gateway is established, and these parameters cannot be changed (or

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renegotiated, e.g. in view of parameters supported by the remote side), unless this connection or session is terminated. Therefore, it is clear from Walsh that the parameters that are used by the local gateway to make a data link connection with the local modem are not based on a "*final set of data link parameters supported by all of said first client modem, said first gateway modem, said second gateway modem and said second client modem.*" Rather, in Walsh, the parameters are only those that are supported by the local modem and the local gateway.

It goes without saying then that a combination of Farris and Walsh do not disclose, teach or suggest "establishing a first data link protocol over said first physical modem connection using said final set of data link parameters." Even more, the disclosure of Walsh at col. 29, which has been relied upon by the Examiner discusses a protocol that runs at a higher level, i.e. the TCP/IP protocol (see col. 29, lines 41-48), which runs on top of the data link protocol that is referred to as "information transfer" state of the "link-up" state in Walsh. To this end, applicant kindly directs the Examiner's attention to col. 25, lines 50-56, which describes that TCP/IP is supported in information transfer state (i.e. after link-up) by supporting information frames UI and I. It is respectfully submitted that TCP/IP is not a modem protocol, but a network protocol. In other words, TCP/IP runs on top of the link-up, and the link-up disclosed in Walsh is not an end-to-end link-up (see col. 25, lines 18-34), but it is a local link-up between the local modem and the local gateway. In sharp contrast, the "link-up" process disclosed by the present application and claimed by claim 30 is a "link-up" that is established based on a final set of parameters supported by *all of* said first client modem, said first gateway modem, said second gateway modem and said second client modem, and not just between local modem and local gateway, i.e. "first client modem and first gateway modem" or "second gateway modem and second client modem." To have a final set of parameters, as claimed by claim 30, it is required to harmonize parameters

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from the remote side with the local side; however, Walsh determines the final set as agreed upon by only the local modem and the local gateway, without receiving or considering the parameters from the remote side. (See col. 25, lines 18-34.)

Accordingly, applicant respectfully submits that claim 30 should be allowed. Further, claims 31-33 and 56 depend from claim 30, and should be allowed at least for the reasons stated above. It is respectfully submitted that independent claim 38 includes limitations similar to those of claim 30. Therefore, independent claim 38, and its respective dependent claims 39-41 and 57, should also be allowed at least for the reasons stated above.

B. Rejection of Claims 35-37 and 43-45 under 35 USC § 103(a)

The Examiner has rejected claims 35-37 and 43-45, under 35 USC § 103(a), as being unpatentable over Farris in view of Walsh, and further in view of Endo and Davis

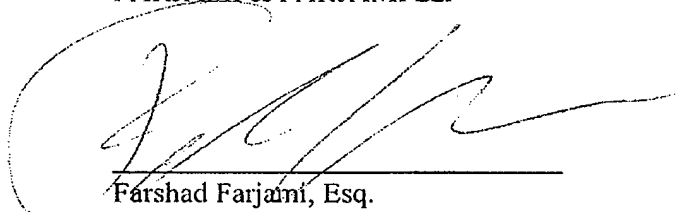
It is respectfully submitted that claims 35-37 and 43-45 depend from claims 30 and 38, respectively, and should also be allowed at least for the reasons stated above.

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C. Conclusion

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 30-45 and 56-57 pending in the present application is respectfully requested.

Respectfully Submitted,
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